

SECOND REGULAR SESSION

SENATE BILL NO. 781

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDGEWAY.

Pre-filed December 27, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

4114S.011

AN ACT

To repeal sections 301.215, 306.435, and 700.385, RSMo, and to enact in lieu thereof three new sections relating to the process of obtaining repossession titles.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 301.215, 306.435, and 700.385, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 301.215,
3 306.435, and 700.385, to read as follows:

301.215. 1. When the holder of any indebtedness secured by a security
2 agreement or other contract for security covering a motor vehicle or trailer, **who**
3 **has a notice of lien on file with the director of revenue**, repossesses the
4 motor vehicle or trailer either by legal process or in accordance with the terms
5 of a contract authorizing the repossession of the vehicle without legal process, the
6 holder may obtain a certificate of ownership from the director of revenue upon
7 presentation of:

8 (1) An application [which shall be upon a blank] form furnished by the
9 director of revenue [and] **that** shall contain a full description of the motor vehicle
10 or trailer and the manufacturer's or other identifying number;

11 (2) **A notice of lien receipt or the original certificate of**
12 **ownership reflecting the holder's lien;** and

13 (3) An affidavit of the holder, certified under penalties of perjury for
14 making a false statement to a public official, that the debtor defaulted in payment
15 of the debt, and that the holder repossessed the motor vehicle or trailer either by
16 legal process or in accordance with the terms of the contract, and the specific
17 address where the vehicle or trailer is held. Such affidavit shall also state that

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 the lienholder has the written consent from all owners or lienholders of record to
19 repossess the vehicle or has provided all the owners or lienholders with written
20 notice of the repossession.

21 **2. Before applying for a repossession title on a motor vehicle or**
22 **trailer** the lienholder shall first give:

23 **(1)** Ten days' written notice by first class United States mail postage
24 prepaid to each of the owners and other lienholders, if any, of the motor vehicle
25 or trailer at each of their last mailing addresses as shown by the last prior
26 certificate of ownership, if any issued [on the motor vehicle or trailer], **or the**
27 **most recent address on the lienholder's records**, that an application for a
28 repossessed title will be made; **or**

29 **(2)** **The lienholder may, ten days prior to applying for a**
30 **repossession title, include the information in the above notice in the**
31 **appropriate uniform commercial code notice under sections 400.9-613**
32 **or 400.9-614, RSMo, as may be amended from time to time. Such**
33 **alternative notice to all owners and lienholders shall be valid and**
34 **enforceable under both the uniform commercial code and this section,**
35 **provided it otherwise complies with the provisions of the uniform**
36 **commercial code.**

37 [2.] **3.** Upon the holder's presentation of the papers **required by**
38 **subsection 1 of this section** and the payment of a fee of ten dollars, the
39 director of revenue, if he is satisfied with the genuineness of the papers, shall
40 issue and deliver to the holder a certificate of ownership which shall be in its
41 usual form except it shall be clearly captioned "Reposessed Title". Each
42 repossessed title so issued shall, for all purposes, be treated as an original
43 certificate of ownership and shall supersede the outstanding certificate of
44 ownership, if any, and duplicates thereof, if any, on the motor vehicle or trailer,
45 all of which shall become null and void.

46 [3.] **4.** In any case where there is no certificate of ownership or duplicate
47 thereof outstanding in the name of the debtor on the repossessed motor vehicle
48 or trailer, the director of revenue shall issue a repossessed title to the holder and
49 shall proceed to collect all unpaid fees, taxes, charges and penalties from the
50 debtor as provided in section 301.190.

51 [4.] **5.** The director of revenue may prescribe rules and regulations for
52 the effective administration of this section. Any rule or portion of a rule, as that

53 term is defined in section 536.010, RSMo, that is created under the authority
54 delegated in this section shall become effective only if it complies with and is
55 subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
56 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any
57 of the powers vested with the general assembly pursuant to chapter 536, RSMo,
58 to review, to delay the effective date, or to disapprove and annul a rule are
59 subsequently held unconstitutional, then the grant of rulemaking authority and
60 any rule proposed or adopted after August 28, 2005, shall be invalid and void.

306.435. 1. When the holder of any indebtedness secured by a security
2 agreement or other contract for security covering an outboard motor, motorboat,
3 vessel, or watercraft **who has a notice of lien on file with the director of**
4 **revenue** repossesses the outboard motor, motorboat, vessel, or watercraft either
5 by legal process or in accordance with the terms of a contract authorizing the
6 repossession of the outboard motor, motorboat, vessel, or watercraft without legal
7 process, the holder may obtain a certificate of [title] **ownership** from the director
8 of revenue upon presentation of:

9 (1) An application[, which shall be upon a blank] form furnished by the
10 director of revenue [and] **which** shall contain [the] **a** full description of the
11 outboard motor, motorboat, vessel, or watercraft and the manufacturer's or other
12 identifying number;

13 (2) **A notice of lien receipt or the original certificate of**
14 **ownership reflecting the holder's lien; and**

15 (3) An affidavit of the holder, **certified under penalties of perjury**
16 **for making a false statement to a public official**, that the debtor defaulted
17 in payment of the debt, and that the holder repossessed the outboard motor,
18 motorboat, vessel, or watercraft either by legal process or in accordance with the
19 terms of the contract, and the specific address where the outboard motor,
20 motorboat, vessel, or watercraft is held[; and

21 (3) The original, or a conformed or photostatic copy of the original, of the
22 security agreement or other contract for security and the instrument evidencing
23 the indebtedness secured by the security agreement or other contract for
24 security. The director may, by regulation, prescribe for the inclusion in either or
25 both the application or affidavit required by this subsection any other information
26 that he, from time to time, deems necessary or advisable, and may prescribe that
27 the affidavit required by this subsection be part of the application.] **Such**
28 **affidavit shall also state that the lienholder has the written consent**

29 from all owners or lienholders of record to repossess the outboard
30 motor, motorboat, vessel, or watercraft or has provided all the owners
31 or lienholders with written notice of the repossession.

32 2. Before applying for a repossession title on an outboard motor,
33 motorboat, vessel, or watercraft, the lienholder shall first give:

34 (1) Ten days' written notice by first class United States mail,
35 postage prepaid, to each of the owners and other lienholders, if any, of
36 the outboard motor, motorboat, vessel, or watercraft at each of their
37 last mailing addresses as shown by the last prior certificate of
38 ownership, if any issued, or the most recent address on the lienholder's
39 records, that an application for a repossessed title will be made; or

40 (2) The lienholder may, ten days prior to applying for a
41 repossession title, include the information in the above notice in the
42 appropriate uniform commercial code notice under sections 400.9-613
43 or 400.9-614, RSMo. Such alternative notice to all owners and
44 lienholders shall be valid and enforceable under both the uniform
45 commercial code and this section, provided it otherwise complies with
46 the provisions of the uniform commercial code.

47 3. Upon the holder's presentation of the papers required by subsection 1
48 of this section and the payment of a fee of ten dollars, the director of revenue, if
49 he is satisfied with the genuineness of the papers, shall issue and deliver to the
50 holder a certificate of title which shall be in its usual form except it shall be
51 clearly captioned "Repossessed Title"[]; except that, unless the application is
52 accompanied by the written consent, acknowledged before an officer authorized
53 to take acknowledgments, of the owners and other lienholders, if any, of the
54 outboard motor, motorboat, vessel, or watercraft as shown by the last prior
55 certificate of title or ownership, if any, issued on the outboard motor, motorboat,
56 vessel, or watercraft, for the issuance of a repossessed title to the applicant, no
57 such repossessed title may be issued by the director of revenue unless the director
58 shall first give ten days' written notice by first class United States mail postage
59 prepared to each of the owners and other lienholders, if any, of the outboard
60 motor, motorboat, vessel, or watercraft at each of their last mailing addresses as
61 shown by the last prior certificate of title or ownership, if any, issued on the
62 outboard motor, motorboat, vessel, or watercraft, that an application for a
63 repossessed title has been made and the date the repossessed title will be issued,
64 which notice shall be accompanied by a copy, photostatic or otherwise, of the

65 application and affidavit. The application for repossessed title may be withdrawn
66 by the applicant at any time before the granting thereof]. Each repossessed title
67 so issued shall, for all purposes, be treated as an original certificate of [title]
68 **ownership** and shall supersede the outstanding certificate of [title or]
69 ownership, if any, and duplicates thereof, if any, on the outboard motor,
70 motorboat, vessel, or watercraft, all of which shall become null and void.

71 [3.] 4. In any case where there is no certificate of [title or] ownership, or
72 duplicate thereof, outstanding in the name of the debtor on the repossessed
73 outboard motor, motorboat, vessel, or watercraft, the director of revenue shall
74 issue a repossessed title to the holder [upon the payment of] **and shall proceed**
75 **to collect** all unpaid fees, taxes, charges and penalties from the debtor as
76 provided in sections 306.015, 306.030, 306.530 and 306.535, in addition to the fee
77 specified in subsection 2 of this section.

78 5. **The director of revenue may prescribe rules and regulations**
79 **for the effective administration of this section. Any rule or portion of**
80 **a rule, as that term is defined in section 536.010, RSMo, that is created**
81 **under the authority delegated in this section shall become effective**
82 **only if it complies with and is subject to all of the provisions of chapter**
83 **536, RSMo, and, if applicable, section 536.028, RSMo. This section and**
84 **chapter 536, RSMo, are nonseverable and if any of the powers vested**
85 **with the general assembly pursuant to chapter 536, RSMo, to review, to**
86 **delay the effective date, or to disapprove and annul a rule are**
87 **subsequently held unconstitutional, then the grant of rulemaking**
88 **authority and any rule proposed or adopted after August 28, 2006, shall**
89 **be invalid and void.**

700.385. 1. When the holder of any indebtedness secured by a security
2 agreement or other contract for security covering a manufactured home, **who has**
3 **a notice of lien on file with the director of revenue**, repossesses the
4 manufactured home either by legal process or in accordance with the terms of a
5 contract authorizing the repossession of the manufactured home without legal
6 process, the holder may obtain a certificate of [title] **ownership** from the director
7 of revenue upon presentation of:

8 (1) An application[, which shall be upon a blank] form furnished by the
9 director of revenue [and] **which** shall contain [the] **a** full description of the
10 manufactured home and the manufacturer's or other identifying number;

11 (2) **A notice of lien receipt or the original certificate of**

12 **ownership reflecting the holder's lien; and**

13 **(3) An affidavit of the holder, certified under penalties of perjury**
14 **for making a false statement to a public official,** that the debtor defaulted
15 in payment of the debt, and that the holder repossessed the manufactured home
16 either by legal process or in accordance with the terms of the contract, and the
17 specific address where the manufactured home is held[; and

18 **(3) The original, or a conformed or photostatic copy of the original, of the**
19 **security agreement or other contract for security and the instrument or**
20 **instruments evidencing the indebtedness secured by the security agreement or**
21 **other contract for security.**

22 The director may, by regulation, prescribe for the inclusion in either or both the
23 application or affidavit required by this subsection any other information that he,
24 from time to time, deems necessary or advisable, and may prescribe that the
25 affidavit required by this subsection be part of the application]. **Such affidavit**
26 **shall also state that the lienholder has the written consent from all**
27 **owners or lienholders of record to repossess the manufactured home or**
28 **has provided all the owners or lienholders with written notice of the**
29 **repossession.**

30 **2. Before applying for a repossession title on a manufactured**
31 **home, the lienholder shall first give:**

32 **(1) Ten days' written notice by first class United States mail,**
33 **postage prepaid, to each of the owners and other lienholders, if any, of**
34 **the manufactured home at each of their last mailing addresses as**
35 **shown by the last prior certificate of ownership, if any issued, or the**
36 **most recent address on the lienholder's records, that an application for**
37 **a repossessed title will be made; or**

38 **(2) The lienholder may, ten days prior to applying for a**
39 **repossession title, include the information in the above notice in the**
40 **appropriate uniform commercial code notice under sections 400.9-613**
41 **or 400.9-614, RSMo. Such alternative notice to all owners and**
42 **lienholders shall be valid and enforceable under both the uniform**
43 **commercial code and this section, provided it otherwise complies with**
44 **the provisions of the uniform commercial code.**

45 **3. Upon the holder's presentation of the papers required by subsection 1**
46 **of this section and the payment of a fee of ten dollars, the director of revenue, if**
47 **he is satisfied with the genuineness of the papers, shall issue and deliver to the**

48 holder a certificate of [title] **ownership** which shall be in its usual form except
49 it shall be clearly captioned "Repossessed Title"[; except that, unless the
50 application is accompanied by the written consent, acknowledged before an officer
51 authorized to take acknowledgments, of the owners and other lienholders, if any,
52 of the manufactured home as shown by the last prior certificate of title or
53 ownership, if any, issued on the manufactured home for the issuance of a
54 repossessed title to the applicant, no such repossessed title may be issued by the
55 director of revenue unless the director shall first give ten days' written notice by
56 first class United States mail postage prepaid to each of the owners and other
57 lienholders, if any, of the manufactured home at each of their last mailing
58 addresses as shown by the last prior certificate of title or ownership, if any,
59 issued on the manufactured home that an application for a repossessed title has
60 been made and the date the repossessed title will be issued, which notice shall
61 be accompanied by a copy, photostatic or otherwise, of the application and
62 affidavit. The application for repossessed title may be withdrawn by the
63 applicant at any time before the granting thereof]. Each repossessed title so
64 issued shall, for all purposes, be treated as an original certificate of [title]
65 **ownership** and shall supersede the outstanding certificate of [title or]
66 ownership, if any, and duplicates thereof, if any, on the manufactured home, all
67 of which shall become null and void.

68 [3.] 4. In any case where there is no certificate of [title or] ownership, or
69 duplicate thereof, outstanding in the name of the debtor on the repossessed
70 manufactured home, the director of revenue shall issue a repossessed title to the
71 holder [upon the payment of] **and shall proceed to collect** all unpaid fees,
72 taxes, charges and penalties owed by the debtor, in addition to the fee specified
73 in subsection 2 of this section.

74 5. **The director of revenue may prescribe rules and regulations**
75 **for the effective administration of this section. Any rule or portion of**
76 **a rule, as that term is defined in section 536.010, RSMo, that is created**
77 **under the authority delegated in this section shall become effective**
78 **only if it complies with and is subject to all of the provisions of chapter**
79 **536, RSMo, and, if applicable, section 536.028, RSMo. This section and**
80 **chapter 536, RSMo, are nonseverable and if any of the powers vested**
81 **with the general assembly pursuant to chapter 536, RSMo, to review, to**
82 **delay the effective date, or to disapprove and annul a rule are**
83 **subsequently held unconstitutional, then the grant of rulemaking**

84 authority and any rule proposed or adopted after August 28, 2006, shall
85 be invalid and void.

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